

REMARKS

Claims 1-38 were pending and subjected to a requirement for restriction/election. By virtue of this amendment, claims 2, 4-5, 8-13, 15-16, 19-29 and 31-38 have been amended and claim 30 has been cancelled, without prejudice. Accordingly, upon entry of this amendment, claims 1-29 and 31-38 are pending and under consideration. Support for the claim amendments can be found throughout the specification as originally filed. No new matter has been introduced.

In particular, claims 4-5, 9-13, 15-16, 19-24, 26-29 and 37 have been amended to remove multiple dependencies. Claim 8 has been amended to depend from claim 7. Support for the amendment to claim 8 may be found, for example, in paragraphs [0047]-[0048] of the published application (US Patent Publication No. 2007/0293425). Claim 12 has been amended to replace “refraction” with “diffraction”. Support for the amendment to claim 12 may be found, for example, in paragraph [0143] of the published application. Claims 2, 10, 11, 19, 21-29 have been amended merely to improve form. Claims 31-38 have been amended to convert swiss style claims into method claims. Support for the amendments to claims 31-38 may be found, for example, in paragraphs [0107]-[0108] of the published application.

Amendments or cancellations of claims should in no way be construed as an acquiescence to any of the Examiner’s rejections. The amendments to the claims are being made solely to expedite prosecution of the present application. Applicants reserve the option to further prosecute the same or similar claims in the instant or subsequent application.

Applicants respectfully request reconsideration in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the Office Action.

Claim Objections

Claims 3-6, 9-17, 19-24, 26-30 and 37 were objected to under 37 CFR §1.75(c) as being in improper form because a multiply dependent claim cannot depend from any other multiply

dependent claim. The claims have been amended to put them in proper form. Accordingly, reconsideration and withdrawal of the objection is respectfully requested.

Election/Restriction

In reply to the outstanding Restriction Requirement, mailed October 2, 2009 in connection with the above application, Applicants hereby elect, Group I (claims 1-26 and 28-38), drawn to a mutein of a BMP, a nucleic acid molecule encoding a mutein of a BMP, a method of making a mutein of a BMP, and a method of using a mutein of a BMP.

Applicants' election is made without prejudice. Applicants reserve the right to file a continuing application or take such other appropriate action as deemed necessary to protect the non-elected inventions. Applicants do not hereby abandon or waive any rights in the non-elected inventions.

In addition, Applicants provisional elect, for search purposes only, the species of SEQ ID NO: 23. Applicants submit that claims 1-26 and 28-38 read on the elected species.

Applicants' species election is made without prejudice. Upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to a reasonable number of species in addition to the elected species, provided that all claims to each additional species are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

CONCLUSION

In view of the above amendments and remarks, Applicants believe the pending application is in condition for allowance. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Applicants believe no fees are due with this response other than those specifically itemized on the accompanying fee transmittal. However, should an additional extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to Deposit Account No. 18-1945, from which the undersigned is authorized to draw under Order No. PHPH-P01-015.

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Respectfully submitted,

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